

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

TELCORDIA TECHNOLOGIES, INC.,)
)
Plaintiff/Counterclaim Defendant,)
)
)
v.) C.A. No. 04-876-GMS
)
)
CISCO SYSTEMS, INC.,)
)
)
Defendant/Counterclaim Plaintiff.)
)

**DEFENDANT CISCO SYSTEMS, INC.'S MOTION FOR NEW TRIAL
ON WILLFUL INFRINGEMENT PURSUANT TO RULE 59(a)**

Pursuant to Fed. R. Civ. P. 59(a), Cisco hereby moves for a new trial on the issue of willful infringement. The Court's jury instruction on willful infringement erroneously included nine factors from *Read Corp. v. Portec, Inc.*, 970 F.2d 816, 826-27 (Fed. Cir. 1992) and inclusion of those factors in the jury instruction did not constitute harmless error.¹ For the reasons set forth in the accompanying brief, the Court should grant Cisco's motion for a new trial.

¹ Pursuant to Rule 51(c), Cisco timely raised objections to the Court's jury instruction on willful infringement (*see* D.I. 359 at 2044:9-2056:1).

MORRIS, NICHOLS, ARSHT & TUNNELL LLP

/s/ Jack B. Blumenfeld

Jack B. Blumenfeld (I.D. #1014)
Leslie A. Polizoti (I.D. #4299)
1201 North Market Street
Wilmington, DE 19899-1347
(302) 658-9200
jblumenfeld@mnat.com
lpolizoti@mnat.com

Attorneys for Defendant Cisco Systems, Inc.

OF COUNSEL:

Matthew D. Powers
Edward R. Reines
Jessica L. Davis
Sonal N. Mehta
WEIL, GOTSHAL & MANGES LLP
201 Redwood Shores Parkway
Redwood Shores, CA 94065
(650) 802-3000

May 31, 2007
845713

CERTIFICATE OF SERVICE

I hereby certify that on May 31, 2007 I electronically filed the foregoing with the Clerk of the Court using CM/ECF, which will send notification of such filing to Steven J. Balick and John G. Day.

I further certify that I caused copies of the foregoing document to be served on May 31, 2007 upon the following in the manner indicated:

BY HAND

John G. Day
ASHBY & GEDDES
500 Delaware Avenue, 8th Fl.
Wilmington, DE 19801

BY FEDERAL EXPRESS
(on June 1, 2007)

Don O. Burley
FINNEGAN, HENDERSON,
FARABOW, GARRETT & DUNNER
901 New York Avenue
Washington, DC 20001

BY ELECTRONIC MAIL

John Day (jday@ashby-geddes.com)
John Williamson (john.williamson@finnegan.com)
York Faulkner (york.faulkner@finnegan.com)
Don Burley (don.burley@finnegan.com)

/s/ Jack B. Blumenfeld

MORRIS, NICHOLS, ARSHT & TUNNELL LLP
1201 North Market Street
Wilmington, DE 19801
(302) 658-9200
jblumenfeld@mnat.com